



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2009-0449; A-1-FRL-9773-2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of State Implementation Plan revisions submitted by the State of Connecticut. These SIP revisions consist of a demonstration that Connecticut meets the requirements of reasonably available control technology for oxides of nitrogen and volatile organic compounds set forth by the Clean Air Act with respect to the 1997 8-hour ozone standard. Additionally, we are proposing approval of three single source orders. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2009-0449 by one of the following methods:

1. www.regulations.gov : Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov
3. Fax: (617) 918-0047.

4. Mail: "Docket Identification Number EPA-R01-OAR-2009-0449," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912.
5. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, (mail code OEP05-2), Boston, MA 02109 - 3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2009-0449. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment,

EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the State submittals are also available for public inspection during normal business hours, by appointment at the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1046, fax number (617) 918-0046, email mcconnell.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose.
- II. Summary of Connecticut’s SIP Revision.
- III. EPA’s Evaluation of Connecticut’s SIP revision.
- IV. Proposed Action
- V. Statutory and Executive Order Reviews.

I. BACKGROUND AND PURPOSE.

On December 8, 2006, the State of Connecticut submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of information documenting how Connecticut complied with the reasonably available control technology (RACT) requirements for the 1997 8-hour ozone standard.¹ On July 20, 2007, Connecticut submitted three single source RACT orders controlling volatile organic compound (VOC) emissions to EPA and requested that the orders be incorporated into the Connecticut SIP.

¹ The Connecticut submittal was made to address RACT for the 1997 8-hour ozone standard and does not address the 0.075 parts per million 2008 ozone standard.

Sections 172(c)(1) and 182(b)(2) of the Clean Air Act (CAA) require states to implement RACT in areas classified as moderate (and higher) non-attainment for ozone, while section 184(b)(1)(B) of the Act requires RACT in states located in the ozone transport region (OTR). Specifically, these areas are required to implement RACT for all major VOC and nitrogen oxide (NO_x) emissions sources and for all sources covered by a Control Techniques Guideline (CTG). A CTG is a document issued by EPA which establishes a “presumptive norm” for RACT for a specific VOC source category. A related set of documents, Alternative Control Techniques (ACT) documents, exists primarily for NO_x control requirements. States must submit rules or negative declarations for CTG source categories, but not for sources in ACT categories. However, RACT must be imposed on major sources of NO_x, and some of those major sources may be within a sector covered by an ACT document.

In 1997, EPA revised the health-based National Ambient Air Quality Standards (NAAQS) for ozone, setting it at 0.08 parts per million (ppm) averaged over an 8-hour time frame. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma.

On November 29, 2005, EPA published a final rule in the Federal Register that outlined the obligations that areas found to be in nonattainment of the 1997 8-hour ozone standard needed to address (see 70 FR 71612). This rule, referred to as the “Phase 2 Implementation rule,” contained, among other things, a description of EPA’s expectations for states with RACT

obligations. The Phase 2 Implementation rule indicated that states could meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls in their SIP approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 8-hour attainment purposes, or with a combination of these two approaches. In addition, a State must submit a negative declaration in instances where there are no CTG sources.

II. SUMMARY OF CONNECTICUT'S SIP REVISIONS.

On December 8, 2006, Connecticut submitted a demonstration that its regulatory framework for stationary sources meets the criteria for RACT as defined in EPA's Phase 2 Implementation rule. The state held a public hearing on the RACT program on October 18, 2006. Connecticut's RACT submittal notes that their prior designation as a nonattainment area for the 1-hour ozone standard resulted in the adoption of stringent controls for major sources of VOC and NO_x, including RACT level controls. Therefore, as allowed for within EPA's Phase 2 Implementation rule, much of Connecticut's submittal consists of a review of RACT controls adopted under the 1-hour ozone standard and an indication of whether those previously adopted controls still represent RACT. Additionally, Connecticut notes that as a member state of the Ozone Transport Commission (OTC) it works with that organization to identify and adopt, as deemed appropriate, regulations on additional VOC and NO_x categories beyond those for which EPA has issued CTGs or ACT documents.

The state's submittal identifies the specific control measures that have been previously adopted to control emissions from major sources of VOC emissions, reaffirms negative declarations for

some CTG categories, and describes updates made to two existing rules to strengthen them so that they will continue to represent VOC RACT. Table 3 of Connecticut's submittal contains a summary of the previously-adopted measures for each of the CTG categories that EPA issued prior to 2006.² The table identifies the specific state rule, where relevant, that is in place, the date of state adoption, and the date that EPA approved the rule into the Connecticut SIP.

Connecticut notes that sections 22a-174-20 and 22a-174-32 of the Regulations of Connecticut State Agencies, which are the principal regulations that apply to stationary sources of VOC emissions, generally cover sources emitting 25 or more tons of VOC per year in the state's "severe" 1-hour ozone nonattainment area and those emitting 50 or more tons of VOC per year in the rest of the state. However, for some CTG categories such as surface coating sources, Connecticut's rules include lower applicability thresholds consistent with the relevant CTGs.

In addition, Connecticut's submittal notes that no sources exist in the state for some CTG categories. Specifically, Table 3 of Connecticut's submittal makes negative declarations for the following CTG sectors:

1. Automobile coating
2. Large petroleum dry cleaners
3. Large appliance coating
4. Natural gas and gas processing plants
5. Flat wood paneling coating
6. Control of VOC leaks from petroleum refineries

² This rulemaking does not address Connecticut's response to the CTGs that EPA issued in 2006, 2007, and 2008.

Finally, Connecticut updated two existing VOC rules in order to continue their status as representing RACT. Namely, these are rules limiting emissions from cutback asphalt paving and solvent cleaning (metal degreasing). The original version of the state's cutback asphalt rule allowed use of cutback asphalt, with some restrictions, during the ozone season and provided exemptions for penetrating prime coat products and for long-term storage of asphalt. The state's updated rule removed these provisions and was submitted to EPA on January 8, 2009 and approved by EPA into the Connecticut SIP on August 22, 2012 (77 FR 50595). Additionally, Connecticut updated its solvent cleaning rule to more closely reflect the OTC's 2001 model rule for this activity. The update included a limit on the vapor pressure used in cold cleaning solvents and operating practices to further reduce VOC emissions. Connecticut submitted its updated solvent cleaning rule to EPA on February 1, 2008, and EPA approved the revised rule into the Connecticut SIP within the August 22, 2012 Federal Register rulemaking noted above.

As required, Connecticut's submittal addresses NO_x emissions as well as VOC emissions. In particular, the submittal's Table 4 lists all major sources of NO_x (and VOC) in the state, and Connecticut identifies several regulations previously approved by EPA which represent RACT for NO_x. Connecticut notes that all facilities in the state with the potential to emit 50 tons or more of NO_x per year (or 25 tons or more in the "severe" 1-hour ozone area of the state) are subject to Regulations of Connecticut State Agencies section 22a-174-22, "Control of Nitrogen Oxide Emissions." In addition, section 22a-174-38 regulates NO_x emissions from Connecticut's six municipal waste combustors (MWCs), which constitute roughly thirty percent of the state's annual NO_x emissions from major NO_x sources. Connecticut indicates that section 22a-174-38 is

as stringent as the maximum achievable control technology (MACT) requirements EPA promulgated in 2006, and that this rule thus represents RACT for MWCs in Connecticut.

Connecticut's submittal also points out that NO_x emissions have been reduced due to the implementation of several NO_x trading programs. Connecticut's SIP includes regulations implementing the OTC and Federal NO_x Budget Programs and the subsequent Clean Air Interstate Rule (CAIR) Program. All three of these programs and their corresponding regulations (Regulations of Connecticut State Agencies section 22-174-22a, 22-174-22b, and 22-174-22c, respectively) were submitted to EPA and approved into the Connecticut SIP. Connecticut explains that when its CAIR program, section 22-174-22c, became effective, its Federal NO_x Budget Program contained in section 22-174-22b was repealed.

In addition to these general, state-wide NO_x and VOC rules, Connecticut's submittal addresses certain individual sources in the state. Table 4 of Connecticut's submittal identifies the major NO_x and VOC sources in the state that are not covered by an ACT or CTG document. The state has issued source-specific orders containing control requirements for the facilities listed in Table 4 of the state's submittal, all of which have been previously approved into the Connecticut SIP. Additionally, on July 20, 2007, Connecticut submitted VOC RACT orders for the Curtis Packaging Corporation in Newtown, Sumitomo Bakelite North America, Incorporated, located in Manchester, and Cyro Industries in Wallingford.

Connecticut's review of its control program for major sources of VOC and NO_x thus concludes that, with the adoption of revised rules for cutback asphalt and solvent cleaning, all major sources in the state are subject to RACT.

III. EPA'S EVALUATION OF CONNECTICUT'S SIP REVISION.

EPA has reviewed Connecticut's determination that it has adopted VOC and NO_x control regulations for stationary sources that constitute RACT, and determined that the set of regulations cited by the state constitute RACT for purposes of the 1997 8-hour ozone standard. Additionally, we are proposing to approve the three VOC RACT orders submitted by the state on July 20, 2007.

Connecticut's submittal documents the state's VOC and NO_x control regulations that have been adopted to ensure that RACT level controls are required in the state. These requirements include the following Regulations of Connecticut State Agencies: section 22a-174-20, Control of Organic Compound Emissions; section 22a-174-22, Control of Nitrogen Oxide Emissions; section 22a-174-30, Dispensing of Gasoline / Stage I and Stage II Vapor Recovery; section 22a-174-32, RACT for Organic Compound Emissions; and 22a-174-38, Municipal Waste Combustors. Additionally, Connecticut has adopted numerous single source RACT orders for major sources of VOC and NO_x that are not covered by one of EPA's CTGs or ACTs, and these orders have been submitted to EPA and incorporated into the SIP. Also, as noted above, Connecticut adopted and EPA has approved into the Connecticut SIP updates to the state's existing asphalt paving and solvent metal cleaning regulations that strengthened these two VOC control regulations.

Furthermore, Connecticut notes that its participation within several NO_x budget trading programs also acted to reduce NO_x emissions in the state. Between 1999 and 2002, Connecticut participated in the OTC's NO_x Budget Program. Connecticut implemented this program by adopting section 22a-174-22a, the NO_x Budget Program, and submitted this regulation to EPA which we incorporated into the Connecticut SIP on September 28, 1999 (64 FR 52233). In 2003, these NO_x budget sources were transitioned to the Federal NO_x budget program which Connecticut implemented by adopting section 22a-174-22b, the Post-2002 NO_x Budget Program. Connecticut submitted this regulation to EPA, and we approved it into the Connecticut SIP on December 27, 2000 (65 FR 81743).

The state's submittal documents a substantial downward trend in NO_x and VOC emissions from stationary sources between 1990 and 2007, although part of that decline is attributable to RACT controls implemented by Connecticut in the early and mid 1990s to help it meet the older 1-hour ozone standard. Of more relevance is the decline in point source emissions that occurred since EPA promulgated the 1997 8-hour ozone standard. Data collected by Connecticut from its annual survey of industrial point source emitters reveals that between 1999 and 2005, VOC emissions from industrial point sources declined by 66%, and NO_x emissions declined by 38%. This decline in emissions was brought about, in part, by the RACT program implemented by Connecticut.

We have determined that these regulatory elements and the resulting reduction in VOC and NO_x emissions from major sources demonstrate that a RACT level of control for both pollutants has been implemented in the state. Additionally, EPA has determined that Connecticut's two 8-hour

ozone nonattainment areas attained the 1997 ozone standard by their attainment date, based on quality assured air monitoring data. This determination was published on August 31, 2010 (75 FR 53219) for the Greater Connecticut area, and on June 18, 2012 (77 FR 36163) for the New York City area. The improvements in air quality represented by these clean data determinations were brought about, in part, by the RACT program implemented by Connecticut.

EPA does not anticipate any difficulties with enforcing the state's standards, as EPA has previously approved the rules Connecticut cites as the means by which RACT is implemented. Additionally, Connecticut acted to further reduce NO_x emissions by adopting section 22a-174-22c, the Clean Air Interstate NO_x Ozone Season trading program. Connecticut submitted this program to EPA, and we approved it into the SIP on January 4, 2008 (73 FR 4105). Although the CAIR program was subject to a number of court challenges, a recent decision by the U.S. Court of Appeals for the District of Columbia issued on August 21, 2012 which vacated the Cross State Air Pollution Rule provided that until the CSAPR litigation is resolved, the CAIR program remains in effect. (*EME Homer City Generation, L.P., v. EPA*, No. 11-1302. (D.C. Cir. 2012)).

EPA has evaluated the VOC and NO_x stationary source control regulations which Connecticut contends meets RACT for the 1997 8-hour standard, and determined that a level of control consistent with RACT has been implemented in the state. Therefore, we are proposing to approve Connecticut's December 8, 2006 RACT certification.

Additionally, we are proposing approval of the VOC RACT orders for the following three companies described below:

Cyro Industries

Cyro Industries manufactures extruded polymer pellets that are molded into various shapes by the end user at its facility located in Wallingford. The facility operates VOC emitting process equipment including raw material storage tanks, monomer preparation equipment, polymer production extrusion lines, grafted rubber equipment, dye preparation and post coloring operations. Additionally, VOC emissions occur from fugitive leaks, and from a number of small process and space heaters.

Cyro Industries took ownership of the facility from American Cyanamid in 2005. Pursuant to Connecticut's section 22a-174-32(e)(6), Cyro submitted an alternative RACT compliance plan to the Connecticut Department of Environmental Protection. The facility essentially requested that the VOC RACT requirements that had formerly been imposed on American Cyanamid pursuant to Connecticut RACT order 8012 be maintained as RACT. Connecticut reviewed this request and essentially agreed, issuing RACT order 8268 to Cyro Industries on February 28, 2007. The new order updated the equipment and process lines described in the prior order and ensures that VOC emissions are reduced by no less than 85%.

Sumitomo Bakelite North America

Sumitomo Bakelite, formerly named Vyncolit North American, Incorporated, produces fiberglass impregnated and resinous pellets at its facility in Manchester. There are seven

separate process lines in use at the facility. The company submitted a request that their emissions be controlled via an alternative RACT compliance plan under section 22a-174-32(e)(6). Connecticut reviewed the facility's request and, on October 11, 2006, issued order 8245 to the facility. The order requires, among other things, that the facility comply with the following requirements: actual emissions may not exceed 45 tons of VOC for any consecutive 12 month period or exceed 8,889 pounds per month for any given month; process lines identified as EXT2 and EXT3 are not allowed to use VOC containing components except during the mixing process, and the vapor pressure of all materials used during the blending process shall be less than or equal to 1.0 millimeters of mercury measured at 18.5 degrees Centigrade; only non-VOC materials can be used in the manufacture of "DAP" products or in process line EXT1; and, emissions of VOC from new, non-extruded products shall not exceed 0.006 pounds of VOC per pound of non-extruded product produced. These requirements will yield a VOC reduction of approximately 76% at the facility.

Curtis Packaging Corporation.

The Curtis Packaging Corporation manufactures custom designed paperboard and cardboard packaging at its facility in Newtown using three sheet-fed offset lithographic printing presses. The facility is subject to EPA's 2006 CTG for lithographic printing. In an effort to comply with the requirements of that CTG, the company reformulated many of its fountain solutions with non-alcohol additives and ultra violet (UV) light cured inks seeking to meet the CTG's requirements. However, the facility was not able to meet the CTG's overall emission reduction requirement, and so submitted an alternative RACT compliance plan to the Connecticut Department of Environmental Protection.

Connecticut reviewed the company's request, and on May 1, 2007, issued order 8270 to the facility. The order requires, among other things, the following: fountain solutions must contain no alcohol additives, and must have a VOC content of 5% or less by weight, as applied; UV cured inks must be used instead of oil based inks; and, cleaning solutions are limited to 30% VOC by weight.

EPA has reviewed these single source VOC RACT orders, and agrees with Connecticut that they represent a RACT level of control for each facility. Therefore, EPA is proposing approval of these orders.

IV. PROPOSED ACTION.

EPA is proposing approval of Connecticut's December 8, 2006 SIP submittal that demonstrates that the state has adopted air pollution control strategies that represent RACT for purposes of compliance with the 1997 8-hour ozone standard. Additionally, we are proposing approval of orders submitted by Connecticut on July 20, 2007 for Cyro Industries, Sumitomo Bakelite North America, and Curtis Packaging, as representing RACT for these three facilities.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this Federal Register.

V. STATUTORY AND EXECUTIVE ORDER REVIEWS

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 et seq.

Dated: January 11, 2013.

Ira W. Leighton,
Acting Regional Administrator,
EPA Region 1.

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